

FIRST REGULAR SESSION

SENATE BILL NO. 445

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Read 1st time February 24, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

2109S.011

AN ACT

To amend chapter 162, RSMo, by adding thereto one new section relating to the use of confinement, restraint, seclusion, and time-out for students receiving special education services.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 162, RSMo, is amended by adding thereto one new section, to be known as section 162.716, to read as follows:

162.716. 1. A student with a disability who receives special education services from a school district or special school district shall not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique.

2. As used in this section, the following terms shall mean:

(1) "Restraint", the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student's body;

(2) "Seclusion", a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that is designed solely to seclude a person and contains less than fifty square feet of space;

(3) "Time-out", a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

(a) That is not locked; and

(b) From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object;

21 (4) "Weapon", any blackjack, concealable firearm, detonator,
22 explosive weapon, firearm, gas gun, knife, knuckles, machine gun,
23 projectile weapon, rifle, short barrel, shotgun, or switchblade, as such
24 terms are defined in section 571.010, RSMo;

25 3. A school district employee, a school district volunteer, or an
26 independent contractor of a school district shall not place a student in
27 seclusion. This subsection shall not apply to the use of seclusion in a
28 court-ordered placement, other than in an educational program of a
29 school district or in a placement or facility to which the federal
30 Children's Health Act of 2000, P.L. 106-310, any subsequent amendments
31 to the act, any regulation adopted under that act, or any subsequent
32 amendments to such regulation, applies.

33 4. The department of elementary and secondary education shall
34 promulgate rules and regulations, which shall contain procedures for
35 the use of restraint and time-out by school district employees, school
36 district volunteers, and independent contractors of school districts for
37 students with a disability who receive special education services. Such
38 rules, regulations, and procedures shall:

39 (1) Be consistent with professionally accepted practices and
40 standards of student discipline and techniques for behavior
41 management;

42 (2) Be consistent with relevant health and safety standards;

43 (3) Identify any discipline management practice or behavior
44 management technique that requires a school district employee, school
45 district volunteer, or independent contractor of a school district to be
46 trained prior to using that practice or technique.

47 5. This section shall not prevent a student's locked, unattended
48 confinement in an emergency situation while awaiting the arrival of
49 law enforcement personnel if:

50 (1) The student possesses a weapon; and

51 (2) The confinement is necessary to prevent the student from
52 causing bodily harm to the student or another person.

53 6. This section and any rules, regulations, and procedures
54 promulgated or adopted under it shall not apply to:

55 (1) A peace officer while performing law enforcement duties;

56 (2) Juvenile probation, detention, or corrections personnel; or

57 (3) An educational services provider with whom a student is

58 placed by a judicial authority, unless the services are provided in an
59 educational program of a school district.

60 7. Any rule or portion of a rule, as that term is defined in section
61 536.010, RSMo, that is created under the authority delegated in this
62 section shall become effective only if it complies with and is subject to
63 all of the provisions of chapter 536, RSMo, and, if applicable, section
64 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
65 and if any of the powers vested with the general assembly pursuant to
66 chapter 536, RSMo, to review, to delay the effective date, or to
67 disapprove and annul a rule are subsequently held unconstitutional,
68 then the grant of rulemaking authority and any rule proposed or
69 adopted after August 28, 2009, shall be invalid and void.

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Bill

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